

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TONYA MILLER,
Plaintiff,

V.

ARG RESOURCES, LLC,
Defendant.

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Civil Action No.: _____

ECF

PLAINTIFF’S ORIGINAL COMPLAINT

I. Parties

1.01. Plaintiff Tonya Miller (“Miller”) is an individual who resides in Parker County, Texas.

1.02. ARG Resources, LLC, (“ARG”) is a limited liability corporation formed in and under the laws of the State of Texas; it may be served with process by serving its registered agent for service of process, Corporation Service Company, 40 Technology Parkway South, Norcross, GA 30092 (Gwinnett County).

II. Jurisdiction

2.01. The Court has jurisdiction over the lawsuit pursuant to 28 U.S.C. § 1332(a), Diversity Jurisdiction, as the action arises under U.S. Constitution, Article 3, §2. Plaintiff seek relief in an amount over \$75,000.

III. Venue

3.01. Venue is proper in the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. § 1391(c) as ARG is subject to personal jurisdiction in the Dallas Division of

the Northern District of Texas.

IV. Factual Background

- 4.01. Miller began working for ARP on June 10, 2010.
- 4.02. Miller's supervisor at ARG was Beverly Leighton.
- 4.03. Miller was injured on the job on July 16, 2010.
- 4.04. Miller filed a claim under the Texas Workers' Compensation Act, see Texas Labor Code §451.001, et. seg.
- 4.05. On July 20, 2010, Miller was released to work with restrictions.
- 4.06. Miller was released to return to work without restrictions on September 27, 2010.
- 4.07. Miller alleges that she informed ARG that she was injured on the job.
- 4.08. Miller reached maximum medical improvement on October 25, 2010.
- 4.09. On or around September 21, 2010, Pepe (Last Name Unknown), Area Supervisor met with Beverly Leighton, General Manager/Supervisor and Miller and said to Miller that she was not being promoted because of her workers' comp injury on July 16, 2010.
- 4.10. On or around November 3, 2010, Beverly Leighton met with Miller and told her that she was being terminated because Miller was not at the hospital on November 3, 2010, as Miller said she was.
- 4.11. Miller contends that she was terminated from her employment and discriminated against by ARG based upon retaliation.

V. Diversity Jurisdiction

5.01. Miller is a resident of Weatherford, Texas.

5.02. ARG is a limited liability corporation based in Norcross, GA.

VI. Cause of Action

6.01 Miller was wrongfully discharged in violation of 451.001, et seq., Texas Labor Code.

VII. Damages

7.01. Miller has suffered the following injuries as a direct and proximate result of ARG's conduct:

- a. loss of past wages;
- b. loss of future wages;
- c. loss of benefits; and
- d. emotional distress and mental anguish in the form of insomnia and depression.

VIII. Demand for Jury

8.01. Miller requests a trial by jury for all issues so triable.

XI.

9.01. PREMISES CONSIDERED, Plaintiff respectfully requests judgments against Defendant for:

- a. Back pay in an amount in excess of the jurisdictional limits;
- b. Front pay in an amount in excess of the jurisdictional limits;
- c. Compensatory damages for mental anguish, emotional distress, inconvenience, past pecuniary losses and loss of enjoyment of life;

- d. Compensation for lost benefits;
- e. Punitive damages due to Defendant's intentional conduct;
- f. Attorney's fees incurred herein and in any proceeding before the United States Court of Appeals for the Fifth Circuit and the United States Supreme Court;
- g. Costs of court;
- h. Pre-judgment and post-judgment interest on the above amounts; and
- i. All other legal and equitable relief to which Plaintiff may show herself justly entitled.

Respectfully submitted,
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